
MAJOR LEGISLATION & TREATIES

Jan.–Dec., 2012

1. Constitutional Law

The Act of Establishment of Special Wards in Large Urban Areas

Law No. 80, September 5, 2012 (Art. 4 to 6 became effective on September 21, 2012 and the other provisions became effective on March 1, 2013). 14 clauses and a supplementary provision.

Background:

Regarding the Osaka area, which has a leading domestic large-scale population and constitutes an economic bloc, the concept of what is called the *Osaka-To* [Metropolis] had been advocated from before. This concept aims to reorganizes Osaka Prefecture as a broader-based local government and Osaka City and its circumference cities, towns and villages as a basic municipality, and to introduce a *To* system similar to that of *Tokyo-To*. Since HASHIMOTO Toru, the Governor of Osaka Prefecture (at that time, and now Mayor of Osaka City), mentioned the *Osaka-To* concept in 2010, renewed attention has been given to this concept.

In Japan, the institution of a local administration and finance system,

including a local government system, is specified by the Local Government Act etc., over which the national government has jurisdiction. From August, 2011, the Local Government System Research Council (30th order), which received a consultation from the Prime Minister under the Democratic Party administration, carried out examination of a large city system. A Special Sub-Committee was established and arguments and a report by experts were made.

Keeping pace with the *Osaka-To* concept, various kinds of bills were also proposed to the Diet by nationwide political parties. In addition, the DP, which was the governing party in those days, submitted a bill to the House of Representatives, in spite of it being in the middle of the debate in the Special Sub-Committee which had received a consultation by the Prime Minister. This behavior invited criticism that there were some problems in respect of the political procedure and the reflection of expert opinions.

Main Provisions:

Purpose (Art.1)

To establish the special case of a large city system according to the actual conditions of the area by setting about the abolition of related cities, towns or villages in the zone of prefectures, the procedure for preparing special wards and the proposal of opinions about the assignment of the administrative work of a special ward and the prefectures, etc.

Definition (Art.2)

“Related cities” is a designated city with a population of more of 2 million, and cities, towns and villages in the zone of the same prefecture etc. that adjoin a designated city, and that designated city itself with a population of more of 2 million. “Related prefectures” includes “related cities.” [Together, these are called “related local government”]

Convention and Agreement for the Establishment of Special Wards (Arts.4 and 5)

The “related local government” which is going to apply for the establishment of a special wards establishes the “Convention”, which creates the “Agreement” about the establishment of a special wards and

negotiates the matter of its establishment.

Recognition by Local Parliament and Referendum (Arts.6 and 7)

When the sending of an “Agreement” by the “Convention” is received, the head of a “related local government” has to bring up the “Agreement” for discussion to each Local Parliament promptly, and has to ask for its recognition.

The “Convention” must release the “Agreement” while notifying the Election Administration Committees of “related cities” and the Minister of Internal Affairs and Communications of the day which has received the notice of this “Agreement” [date of record], immediately when a “Convention” has received the notice from the heads of a purport whose Local Parliament of the “related local governments” has approved the “Agreement.”

The EAC of “related cities” which has received the notice from the “Convention” has to hold a vote among the electorate about the establishment of special wards within 60 days after the date of record.

Application of Installation (Arts.8 and 9)

The “related local governments” may apply for the establishment of special wards to the Minister of IAC jointly, when there is the support of the majority of the total of the valid vote in the vote in all the “related cities” respectively.

Application of Statute (Art.10)

In application of the statute, it is considered in principle that the prefectures which include special wards are *To*.

Editorial Note:

This Act is a law for the initiative of a local self-governing body where the population is on a large scale within the area to perform extensive re-examination, including streamlining of basic municipalities, distribution of their administrative work with a broader-based local government, fiscal adjustment, and source-of-revenue distribution, while also reflecting the viewpoints of residents’ autonomous bodies. After the establishment of the Act, Osaka Prefecture and Osaka City installed a “Convention” in

February, 2013, according to the Osaka-*To* concept. They made public a plan for the installation of an office to take charge of administrative work in Osaka City.

The Act has a strong aspect as a law for coping with the problems in the Osaka area, as is clear from the circumstances of establishment. But the installation of a local special case system is not so easy, since Art. 95 of the Constitution demands the consent through a local referendum as a condition for the establishment of a law which applies only to a municipal corporation. Therefore, it seems that the Act specified a large city system as a general system which does not have local limitations attached.

Recent discussion concerning a local government system has focused on the source of revenue and transfer of authority. As mentioned above, although there was a procedural problem in the presentation process of the bill, the request for residents' autonomy shown also in the argument of the Special Sub-Committee is reflected in the Act.

Concerning the system and employment of local government, the extensive control and participation by the national government have often been emphasized in Japan. It is proved by a consignment to the extensive law about the local government by the Constitution, and the existence of various kinds of local administration and finance statutes based on it that the tradition of the powerful centralization of power under the previous Constitution has not necessarily ceased even now. On the other hand, although this law is related to the procedure for the arrangement of the local administration system, it is concerned also with the substance of a local government system by specifying the reflection of the residents' autonomy which led to a referendum on the initiative based on the autonomy of the local government.

2. Law of Property and Obligations

The Interim Draft on the Revision of the Civil Code (Law of Obligations)

February 26, 2013